APPLICATION ACCEPTED: December 17, 2010
DATE OF PUBLIC HEARING: March 2, 2011
TIME: 9:00 a.m.

County of Fairfax, Virginia

February 23, 2011

STAFF REPORT

SPECIAL PERMIT APPLICATION NO. SP 2010-SP-072

SPRINGFIELD DISTRICT

APPLICANT/OWNER:	Ali A. Abdi
LOCATION:	6318 Wendy Ann Court
SUBDIVISION:	Poburn Woods
TAX MAP:	77-4 ((9)) 20
LOT SIZE:	21,058 square feet
ZONING:	R-1 (Cluster)
ZONING ORDINANCE PROVISION:	8-923
SPECIAL PERMIT PROPOSAL:	To permit fence greater than 4.0 feet in height to remain in the front yards of a corner lot.

A copy of the BZA's Resolution setting forth this decision will be mailed within five (5) days after the decision becomes final.

The approval of this special permit does not interfere with, abrogate or annul any easement, covenants, or other agreements between parties, as they may apply to the property subject to this application.

For additional information, call Zoning Evaluation Division, Department of Planning and Zoning at 324-1280, 12055 Government Center Parkway, Suite 801, Fairfax, Virginia 22035. **Board of Zoning Appeals' meetings are held in the Board Room, Ground Level, Government Center Building, 12000 Government Center Parkway, Fairfax, Virginia 22035-5505**.

Americans with Disabilities Act (ADA): Reasonable accommodation is available upon 7 days advance notice. For additional information on ADA call (703) 324-1334 or TTY 711 (Virginia Relay Center).

O:\dhedri\Special Permits\(3-2) SP 2010-SP-072 Abdi (fence)\SP 2010-SP-072 Abdi staff report.doc

Deborah Hedrick

Department of Planning and Zoning
Zoning Evaluation Division
12055 Government Center Parkway, Suite 801
Fairfax, Virginia 22035-5509
Phone 703-324-1290 FAX 703-324-3924
www.fairfaxcounty.gov/dpz/

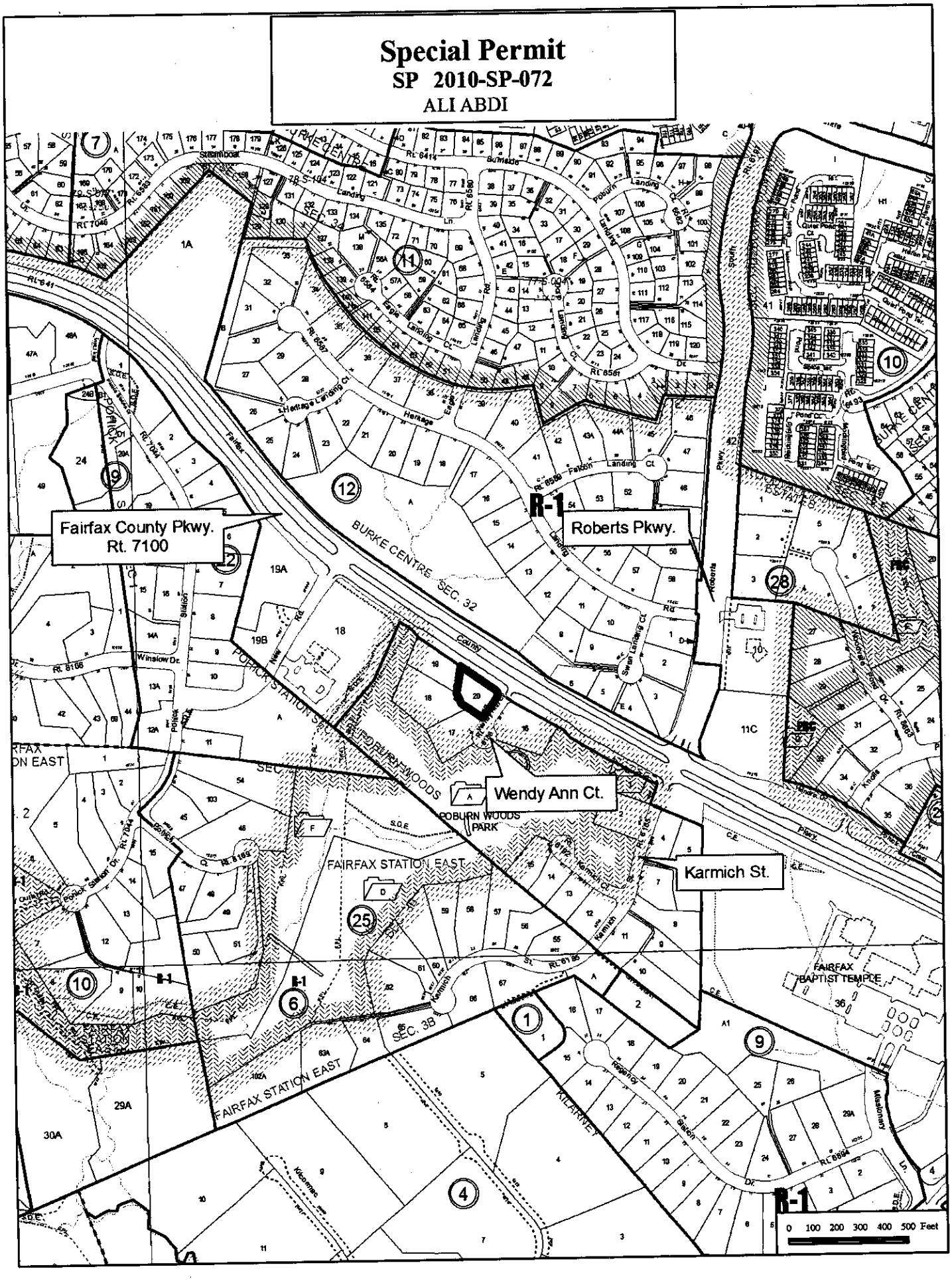
DEPARTMENT OF PLANNING & ZONING

Special Permit

SP 2010-SP-072

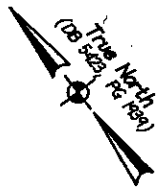
ALI ABDI

Special Permit
SP 2010-SP-072
ALI ABDI



NOTES:

1) The property delineated hereon is located on Fairfax County Tax Assessment Map #77-4-((9)) parcel 20 and is zoned R-1 Cluster.
2) Current Owner: Ali Abdi acquired in Deed Book 16135, Page 247.
3) Property Address: #6318 Wendy Ann Court, Fairfax Station, Virginia 22039.
4) Current required minimum yards for the R-1 Cluster zone: Front - 30', Rear - 25', Side - 12' with a total of 40'.
5) This parcel is served by public water and private septic system.
6) There are no Flood plains or RPA's located on this parcel.
7) NO TITLE REPORT FURNISHED.
8) A search of the land records by this firm failed to locate any major utility easements or any utility easements having a width of 25' or more.

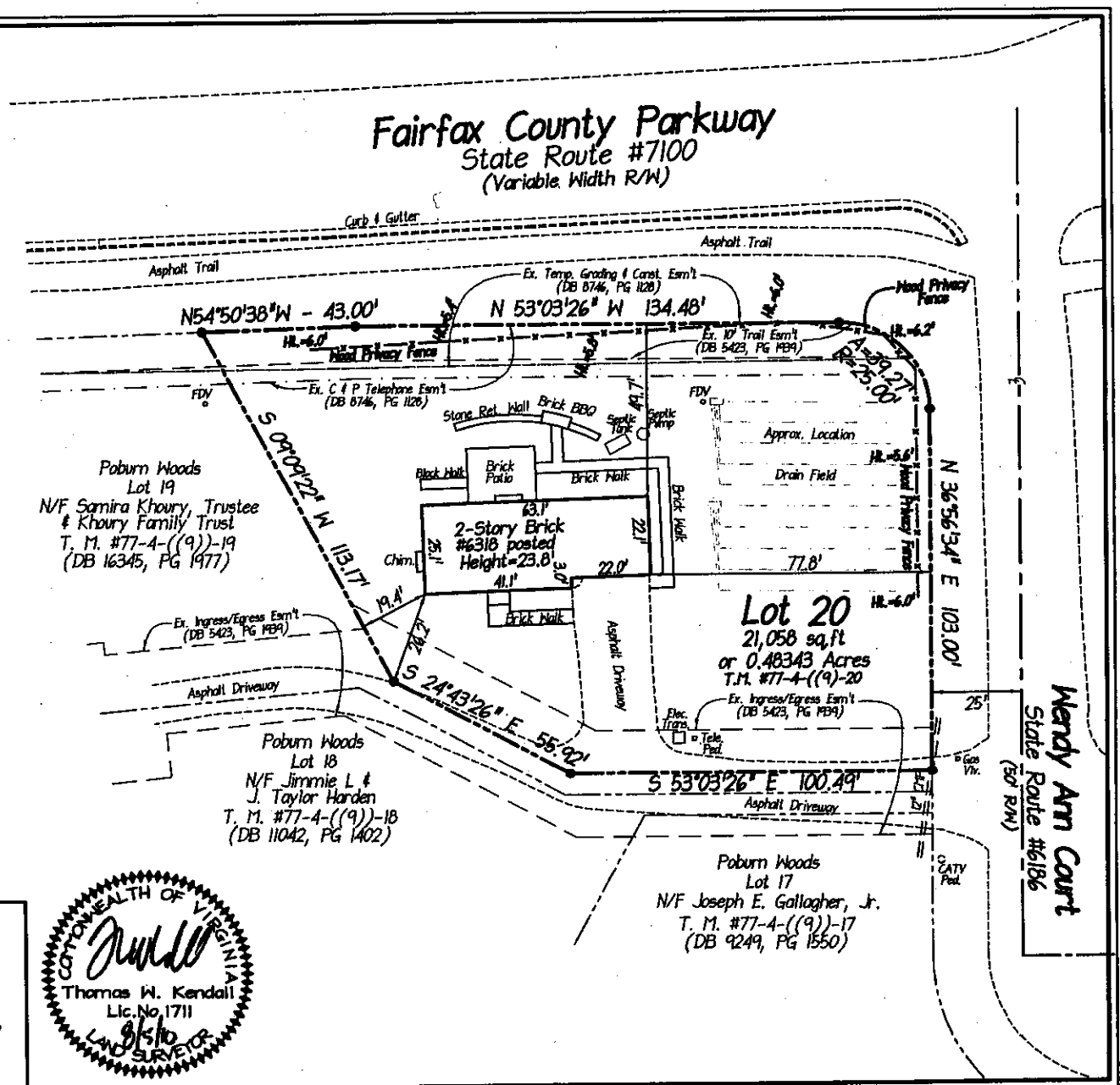


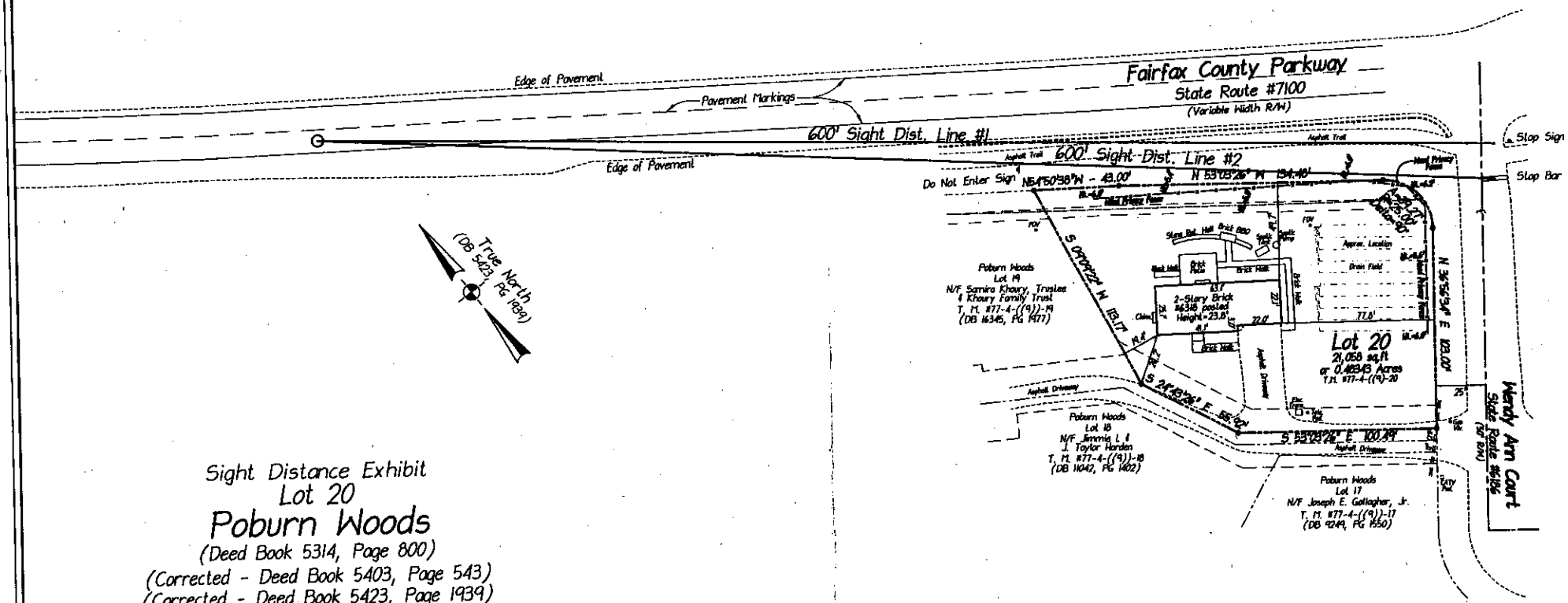
Special Permit Plat
Lot 20
Poburn Woods
(Deed Book 5314, Page 800)
(Corrected - Deed Book 5403, Page 543)
(Corrected - Deed Book 5423, Page 1939)
Springfield District
Fairfax County, Virginia
August 4, 2010 - Scale: 1" = 30'

Graphic Scale
30 0 30 60 90

Kendall Consulting, Inc.
Land Surveying & Land Planning
P. O. Box 1569 - Fairfax, Virginia 22038
Ph: (703) 591-1157 Fax: (703) 591-1518

COMMONWEALTH OF VIRGINIA
Thomas W. Kendall
Lic. No. 1711
8/5/10
LAND SURVEYOR





Sight Distance Exhibit
Lot 20
Poburn Woods
(Deed Book 5314, Page 800)
(Corrected - Deed Book 5403, Page 543)
(Corrected - Deed Book 5423, Page 1939)
Springfield District
Fairfax County, Virginia
November 30, 2010 - Scale: 1" = 30'
Sheet 1 of 2

Kendall Consulting, Inc.
Land Surveying & Land Planning
P. O. Box 1569 - Fairfax, Virginia 22038
Ph: (703) 591-1157 Fax: (703) 591-1518

COMMONWEALTH OF VIRGINIA
Thomas W. Kendall
Lic.No.1711
11/30/10
LAND SURVEYOR

RECEIVED
Department of Planning & Zoning
DEC 01 2010
Zoning Evaluation Divisi

600' Sight Dist. Line #1
View from center of lane opposite Stop Sign

600' Sight Dist. Line #2
View from center of Stop Bar

NOTES:

1) The sight distance photos were taken on November 3, 2010.
2) The height of the camera for both pictures was 3.5'.
3) See sheet #1 for the horizontal location of the camera'.
4) Sight distance line #1 has a clear sight line of more than 600'.
5) Even though sight distance line #2 does not have a clear sight line of more than 600', the sight line is not impacted by the fence. The sight distance is affected only by ground and vegetation.

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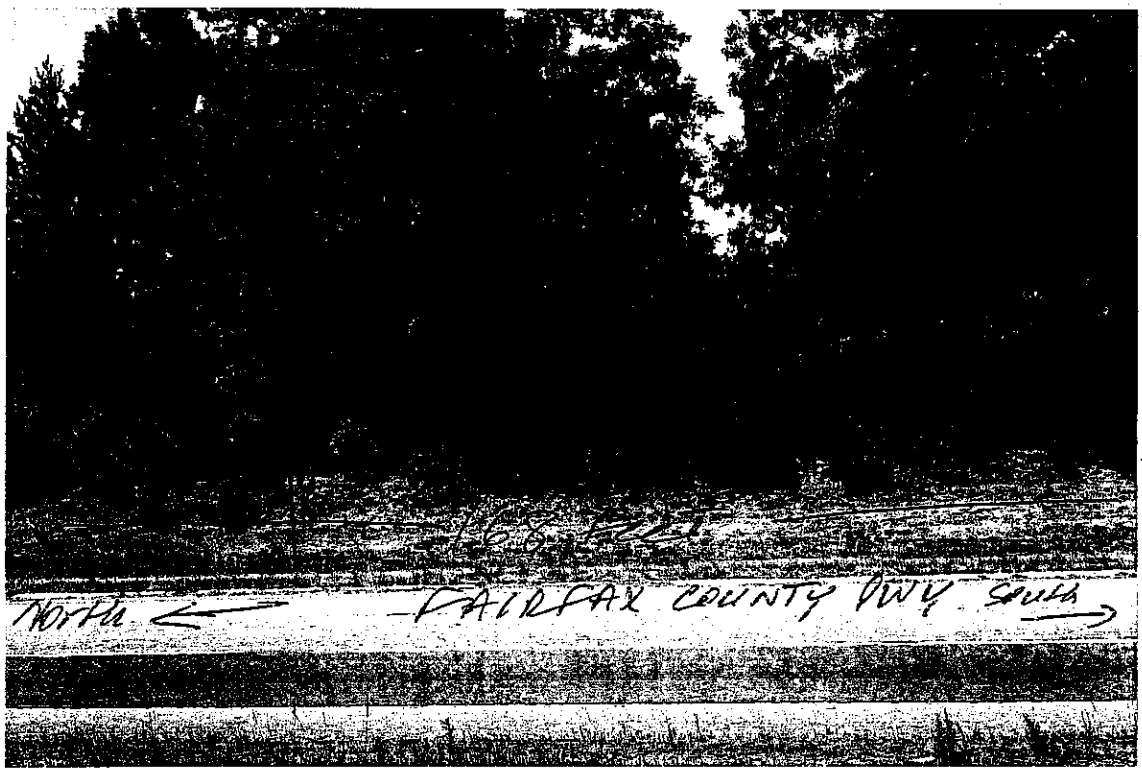
Springfield District
Fairfax County, Virginia
November 30, 2010 - Scale: N/A

Sheet 2 of 2

EAST ← WENDY ANN CT. WEST →


North
FAIRFAX COUNTY PWY.
South

80 feet
WENDY ANN CT.
West

DESCRIPTION OF THE APPLICATION

The applicant is requesting approval of a special permit to permit an existing fence greater than 4.0 feet in height to remain in a front yard of a corner lot. The wood privacy fence ranges in height from 5.4 feet to 6.2 feet and is located along the front lot lines facing the Fairfax County Parkway, east and west, and Wendy Ann Court, north and south. The fence measures approximately 168 feet along the Fairfax County Parkway and approximately 80 feet along Wendy Ann Court. The Zoning Ordinance currently permits fences 4.0 feet in height by-right; however, through a special permit, an applicant can request a fence in the front yard up to 6.0 feet in height.

	Structure	Yard	Height Permitted By right	Maximum Height Requested	Modification Requested
Special Permit	Fence	Front	4.0 feet	6.0 feet	2.0 feet

ANALYSIS OF THE APPLICATION

- **Title of Plat:** Special Permit Plat, Lot 20, Poburn Woods
- **Prepared by:** Kendall Consulting, Inc., dated August 4, 2010, signed August 5, 2010

CHARACTER OF THE AREA

	Zoning	Use
North	R-1 (Cluster)	Single Family Detached Dwellings
South	R-1 (Cluster)	Single Family Detached Dwellings
East	R-1 (Cluster)	Single Family Detached Dwellings
West	R-1 (Cluster)	Single Family Detached Dwellings

BACKGROUND

Records indicate that the two-story single family detached dwelling was constructed in 1980. The applicant purchased the home in 2004 and constructed the existing wood privacy fence. On February 4, 2010 and April 20, 2010, Notices of Violations (NOV) were issued to the applicant, which are attached as Appendix 4. The lot is deemed to have two front yards, one along the Fairfax County Parkway and one along Wendy Ann Court.

In addition to frontage on the Fairfax County Parkway and Wendy Ann Court, the property fronts on a pipestem which allows access to a total of four properties. The fence is located along the Parkway and Wendy Ann Court frontage and ends approximately 60 feet from the edge of the pipestem driveway. The applicant has provided sight distance information with their statement of justification which depicts the fence set back from the roadways and establishes approximately 600 feet of clear sight line from the intersection of the Fairfax County Parkway and Wendy Ann Court, which meets the site distance requirements in the Zoning Ordinance.

Portions of the fence along the Fairfax County Parkway are located within several easements, including a Temporary Grading & Construction Easement, a 10 foot wide Trail Easement and a C&P Telephone Easement. Staff has informed the applicant that the County is not responsible for any repair to, or the replacement of the fence if work must be performed within any of the easements. Also, if the easement is a public access easement, such as the trail easement, the fence must be located in a manner that will not impede the public's use of the easement. An asphalt trail currently exists beyond the limits of the existing fence; however, the trail easement is on the applicant's property. A development condition has been included to address this issue. Additionally, a portion of the fence exceeds 6.0 feet in height; a development condition has been included requiring a reduction in the height to a maximum of 6.0 feet.

Records indicate there were no other similar applications for properties in the vicinity of the application site heard by the BZA.

ZONING ORDINANCE REQUIREMENTS (See Appendix 5)

- General Special Permit Standards (Sect. 8-006)
- Group 9 Standards (Sect. 8-903)
- Sect. 8-923 Provisions for Increase in Fence and/or Wall Height in Any Front Yard

CONCLUSION

If it is the intent of the BZA to approve this application, staff suggests the BZA condition its approval by requiring conformance with the conditions set forth in Appendix 1 of this report, Proposed Development Conditions.
The approval of this special permit does not interfere with, abrogate or annul any easement, covenants, or other agreements between parties, as they may apply to the property subject to this application.

APPENDICES

1. Proposed Development Conditions
2. Applicant's Affidavit
3. Applicant's Statement of Justification
4. Notices of Violations dated February 4, 2010 and April 20, 2010
5. Zoning Ordinance Provisions

PROPOSED DEVELOPMENT CONDITIONS

SP 2010-SP-072

February 23, 2011

1. This special permit is approved for the location of the fence as shown on the plat prepared by Kendall Consulting, Inc., dated August 4, 2010, signed August 5, 2010, as submitted with this application and is not transferable to other land.

2. The applicant shall assume all responsibility for repair and/or replacement of any portions of the fence which must be removed to accommodate repairs and/or maintenance within any of the easements as shown on the special permit plat.

3. Within 90 days of approval of this special permit application, the applicant shall reduce all portions of the fence to a maximum of 6.0 feet in height.

This approval, contingent upon the above-noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations or adopted standards.

Application No.(s): _____
(county-assigned application number(s), to be entered by County Staff)

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: 8/6/10
(enter date affidavit is notarized)

I, ALI ABDI, do hereby state that I am an
(enter name of applicant or authorized agent)

(check one) [X] applicant
[ ] applicant's authorized agent listed in Par. 1(a) below

10478

and that, to the best of my knowledge and belief, the following is true:

1(a). The following constitutes a listing of the names and addresses of all **APPLICANTS, TITLE OWNERS, CONTRACT PURCHASERS,** and **LESSEES** of the land described in the application,* and, if any of the foregoing is a **TRUSTEE,**** each **BENEFICIARY** of such trust, and all **ATTORNEYS** and **REAL ESTATE BROKERS,** and all **AGENTS** who have acted on behalf of any of the foregoing with respect to the application:

(**NOTE**: All relationships to the application listed above in **BOLD** print must be disclosed. Multiple relationships may be listed together, e.g., **Attorney/Agent, Contract Purchaser/Lessee, Applicant/Title Owner**, etc. For a multiparcel application, list the Tax Map Number(s) of the parcel(s) for each owner(s) in the Relationship column.)

NAME (enter first name, middle initial, and last name)	ADDRESS (enter number, street, city, state, and zip code)	RELATIONSHIP(S) (enter applicable relationships listed in **BOLD** above)
ALI A. ABDI	6318 WENDY ANN CT. FAIRFAX STATION, VA 22039	OWNER

(check if applicable) [ ] There are more relationships to be listed and Par. 1(a) is continued on a "Special Permit/Variance Attachment to Par. 1(a)" form.

* In the case of a condominium, the title owner, contract purchaser, or lessee of 10% or more of the units in the condominium.
** List as follows: Name of trustee, Trustee for (name of trust, if applicable), for the benefit of: (state name of each beneficiary).

FORM SP/VC-1 Updated (7/1/06)

Application No.(s): _____
(county-assigned application number(s), to be entered by County Staff)

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: 8/6/10 (enter date affidavit is notarized)

109478

1(b). The following constitutes a listing*** of the **SHAREHOLDERS** of all corporations disclosed in this affidavit who own 10% or more of any class of stock issued by said corporation, and where such corporation has 10 or less shareholders, a listing of all of the shareholders:

(**NOTE:** Include **SOLE PROPRIETORSHIPS, LIMITED LIABILITY COMPANIES,** and **REAL ESTATE INVESTMENT TRUSTS** herein.)

CORPORATION INFORMATION

NAME & ADDRESS OF CORPORATION: (enter complete name, number, street, city, state, and zip code)

N/A

DESCRIPTION OF CORPORATION: (check one statement)

[ ] There are 10 or less shareholders, and all of the shareholders are listed below.
[ ] There are more than 10 shareholders, and all of the shareholders owning 10% or more of any class of stock issued by said corporation are listed below.
[ ] There are more than 10 shareholders, but no shareholder owns 10% or more of any class of stock issued by said corporation, and no shareholders are listed below.

NAMES OF SHAREHOLDERS: (enter first name, middle initial, and last name)

N/A

(check if applicable) [ ] There is more corporation information and Par. 1(b) is continued on a "Special Permit/Variance Attachment 1(b)" form.

*** All listings which include partnerships, corporations, or trusts, to include the names of beneficiaries, must be broken down successively until (a) only individual persons are listed or (b) the listing for a corporation having more than 10 shareholders has no shareholder owning 10% or more of any class of stock. ***In the case of an APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE* of the land that is a partnership, corporation, or trust, such successive breakdown must include a listing and further breakdown of all of its partners, of its shareholders as required above, and of beneficiaries of any trusts. Such successive breakdown must also include breakdowns of any partnership, corporation, or trust owning 10% or more of the APPLICANT, TITLE OWNER, CONTRACT PURCHASER or LESSEE* of the land. Limited liability companies and real estate investment trusts and their equivalents are treated as corporations, with members being deemed the equivalent of shareholders; managing members shall also be listed.*** Use footnote numbers to designate partnerships or corporations, which have further listings on an attachment page, and reference the same footnote numbers on the attachment page.

Application No.(s): _____
(county-assigned application number(s), to be entered by County Staff)

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: 8/6/10
(enter date affidavit is notarized)

109478

1(c). The following constitutes a listing*** of all of the **PARTNERS**, both **GENERAL** and **LIMITED**, in any partnership disclosed in this affidavit:

PARTNERSHIP INFORMATION

PARTNERSHIP NAME & ADDRESS: (enter complete name, number, street, city, state, and zip code)

(check if applicable) [ ] The above-listed partnership has no limited partners.

NAMES AND TITLE OF THE PARTNERS (enter first name, middle initial, last name, and title, e.g. **General Partner, Limited Partner, or General and Limited Partner**)

N/A

(check if applicable) [ ] There is more partnership information and Par. 1(c) is continued on a "Special Permit/Variance Attachment to Par. 1(c)" form.

*** All listings which include partnerships, corporations, or trusts, to include the names of beneficiaries, must be broken down successively until: (a) only individual persons are listed or (b) the listing for a corporation having more than 10 shareholders has no shareholder owning 10% or more of any class of stock. ***In the case of an APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE* of the land that is a partnership, corporation, or trust, such successive breakdown must include a listing and further breakdown of all of its partners, of its shareholders as required above, and of beneficiaries of any trusts. Such successive breakdown must also include breakdowns of any partnership, corporation, or trust owning 10% or more of the APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE* of the land. Limited liability companies and real estate investment trusts and their equivalents are treated as corporations, with members being deemed the equivalent of shareholders; managing members shall also be listed.*** Use footnote numbers to designate partnerships or corporations, which have further listings on an attachment page, and reference the same footnote numbers on the attachment page.

Application No.(s): _____
(county-assigned application number(s), to be entered by County Staff)

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: 8/6/10 (enter date affidavit is notarized)

109478

1(d). One of the following boxes **must** be checked:

[ ] In addition to the names listed in Paragraphs 1(a), 1(b), and 1(c) above, the following is a listing of any and all other individuals who own in the aggregate (directly and as a shareholder, partner, and beneficiary of a trust) 10% or more of the **APPLICANT, TITLE OWNER, CONTRACT PURCHASER,** or **LESSEE*** of the land:

N/A

[X] Other than the names listed in Paragraphs 1(a), 1(b), and 1(c) above, no individual owns in the aggregate (directly and as a shareholder, partner, and beneficiary of a trust) 10% or more of the **APPLICANT, TITLE OWNER, CONTRACT PURCHASER,** or **LESSEE*** of the land.

2. That no member of the Fairfax County Board of Zoning Appeals, Planning Commission, or any member of his or her immediate household owns or has any financial interest in the subject land either individually, by ownership of stock in a corporation owning such land, or through an interest in a partnership owning such land.

EXCEPT AS FOLLOWS: (**NOTE**: If answer is none, enter "**NONE**" on the line below.)

NONE

(check if applicable) [ ] There are more interests to be listed and Par. 2 is continued on a "Special Permit/Variance Attachment to Par. 2" form.

Application No.(s): _____
(county-assigned application number(s), to be entered by County Staff)

SPECIAL PERMIT/VARIANCE AFFIDAVIT

DATE: 8/6/10 (enter date affidavit is notarized)

109478

3. That within the twelve-month period prior to the public hearing of this application, no member of the Fairfax County Board of Zoning Appeals, Planning Commission, or any member of his or her immediate household, either directly or by way of partnership in which any of them is a partner, employee, agent, or attorney, or through a partner of any of them, or through a corporation in which any of them is an officer, director, employee, agent, or attorney or holds 10% or more of the outstanding bonds or shares of stock of a particular class, has, or has had any business or financial relationship, other than any ordinary depositor or customer relationship with or by a retail establishment, public utility, or bank, including any gift or donation having a value of more than $100, singularly or in the aggregate, with any of those listed in Par. 1 above.

EXCEPT AS FOLLOWS: (**NOTE:** If answer is none, enter "NONE" on line below.)

NONE

(**NOTE: Business or financial relationships of the type described in this paragraph that arise after the filing of this application and before each public hearing must be disclosed prior to the public hearings. See Par. 4 below.)**

(check if applicable) [ ] There are more disclosures to be listed and Par. 3 is continued on a "Special Permit/Variance Attachment to Par. 3" form.

4. **That the information contained in this affidavit is complete, that all partnerships, corporations, and trusts owning 10% or more of the APPLICANT, TITLE OWNER, CONTRACT PURCHASER, or LESSEE* of the land have been listed and broken down, and that prior to each and every public hearing on this matter, I will reexamine this affidavit and provide any changed or supplemental information, including business or financial relationships of the type described in Paragraph 3 above, that arise on or after the date of this application.**

WITNESS the following signature: _____

(check one) [X] Applicant [ ] Applicant's Authorized Agent

ALI A. ABDI
(type or print first name, middle initial, last name, and title of signee)

Subscribed and sworn to before me this 6 day of August 2010, in the State/Comm. of Virginia, County/City of Fairfax.

Robert Wyatt Harrison
Notary Public

My commission expires: 9-30-2013

Robert Wyatt Harrison
Commonwealth of Virginia
Notary Public
Commission No. 7260104
My Commission Expires 09/30/2013

Fairfax County Zoning Evaluation Division

Department of Zoning and Planning

12055 Government Center Parkway, Suite 801

Fairfax, VA 22035

July 28, 2010

RECEIVED
Department of Planning & Zoning
AUG 06 2010
Zoning Evaluation Division

Subject: Property Fence at 6318 Wendy Ann Ct.

Statement of Justification

I am the owner of 6318 Wendy Ann Ct. Fairfax Station VA, 22039. This Special Permit Application seeks modification to my front yard fence from maximum height of four feet to six feet. The proposed fence is within my property line facing Wendy Ann Ct (North side). The fence is 80 long in linear feet. The fence is 1"x4"x6' pressure treated wood with 4"x4" posts. Each section is 8 feet long. We used 2" galvanized nails throughout.

I have also constructed a six foot fence along West side section of my property facing Fairfax County Parkway. The fence is 168 feet long in linear feet. The height of the fence is in accordance with existing Fairfax County Ordinance.

My property borders Fairfax County Parkway on the West and Wendy Ann Ct. on the North. We have small children and we need the fence to keep our children safe. The fence would also help reduce highway noise and improve our privacy. Highway noise has increased substantially in recent years due to increased vehicle traffic in the Fairfax County Parkway. The proposed fence (Wendy Ann Ct. side) is two feet higher than the current maximum height requirement of four feet. The fence is harmonious with and will not adversely affect the use or development of neighboring properties. In fact, it adds value to the sub-division. There are only five houses in the sub-division including our property. As a matter of courtesy, I

have discussed the matter with my neighbors and as of July 28, 2010, four of the five property owners are in favor of my action. I could not reach the one remaining property owner as of the time this application was submitted.

I respectfully request that you let us keep the fence as stated for the safety of our children.

Thank you for your consideration.

Sincerely,

Ali Abdi

Fairfax County

November 10, 2010

Department of Planning and Zoning

Zoning and Evaluation Division

12055 Government Center Parkway, Suite 801

Fairfax, VA 22035-5509

Attn: Virginia Ruffner

As requested, I am providing additional clarification in response to your question regarding Section 2-505. This ordinance was developed based upon the usual and customary distance between the property line and the traveled way being 7' to 10'; however. The distance between my property line and the curb or edge of travelled lanes is 31' at the intersection. The attached sketch shows the sight distance from 2 different vantage points which show that 1) the existing sight distance is adequate, 2) the existing fence does not impact the sight distance, and 3) there was never a need for a sight distance easement.

In addition, when Fairfax County Parkway was constructed, there were several easements that were required to be recorded on my lot, but a sight distance easement was not among them because it was unnecessary. I have also enclosed additional photos from the intersection of Wendy Ann Ct. and Fairfax which also show the stop sign at the intersection. This clearly indicates that there is sufficient sight distance at the corner of Wendy Ann Ct. and Fairfax County Parkway.

Please let me know if you require any additional information. Thank you for cooperation.

Sincerely,

Ali Abdi

RECEIVED
Department of Planning & Zoning
DEC 01 2010
Zoning Evaluation Division

Ms. Virginia H. Ruffner

Department of Planning and Zoning

12055 Government Center Parkway, Suite 801

Fairfax, Virginia, 22035

October 10, 2010

RECEIVED
Department of Planning & Zoning
OCT 19 2010
Zoning Evaluation Division

Re: Special Permit Application – Ali Abdi

Dear Ms. Ruffner:

This is response to your September 3, 2010 letter requesting additional information in connection with my application.

1. 8-923 (2) "The fence and/or wall shall meet the sight distance requirement contained in Sect. 2-505."

Answer: The fence meets this requirement. Wendy Ann Ct. is a dead end road and the fence does not obstruct view from pipe stem (asphalt drive way or from Wendy Ann Ct. The distance between the pipe stem and the edge of fence is approximately 60 linear feet. Moreover, anyone driving on the pipe stem must stop and can only turn left since Wendy Ann is a dead-end street. Anyone exiting from Wendy Ann Ct. to Fairfax County Parkway must stop and yield to incoming traffic (south bound). There is clear view from Wendy Ann Ct. to Fairfax County Parkway.

2. 3.00 "Photographs of the application property and abutting properties showing existing structures...entire front, side and rear yards."

Answer: Please see enclosed additional photos as requested.

3. 5.00 "A written statement from the applicant describing the proposed use, giving all pertinent data.."

Answer: This is a safety/privacy 6' fence. Our property borders Fairfax County Parkway on the West side. We need the fence to keep our young children safe from the highway.

5.07 "Description of building façade and architecture of proposed new building or additions."

Answer: This is not a building façade, new building or additions but a safety/privacy fence along the West and South side of our property.

5.09 "A statement that the proposed development conforms to the provisions of all applicable ordinances, regulations and adopted standards...."

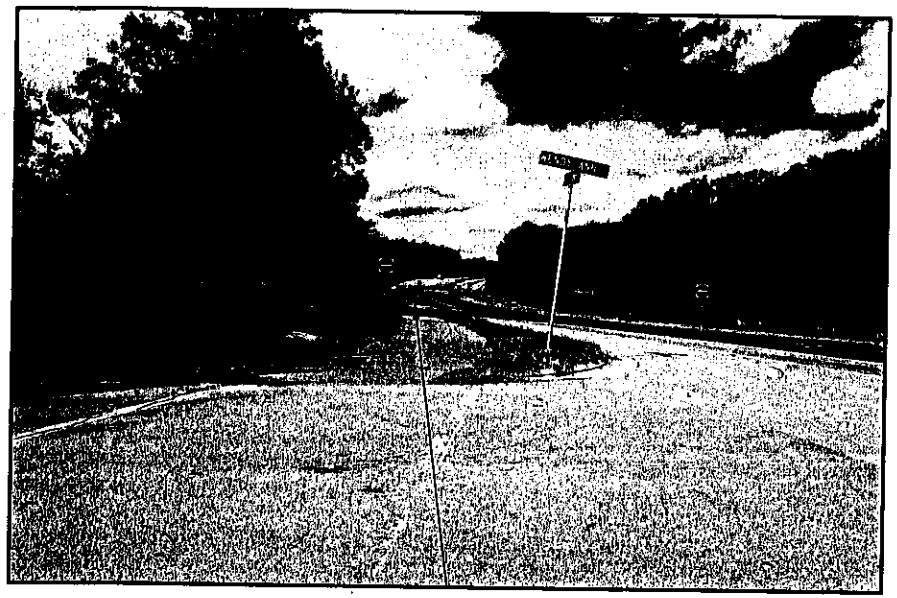
Answer: The proposed fence conforms to the provisions of all applicable ordinances.

If you require any additional information please contact me on 703-944-5522 or 202-690-0880.

Thank you for your consideration,

Sincerely,

Ali Abdi



600' Sight Dist. Line #1
View from center of lane opposite Stop Sign

600' Sight Dist. Line #2
View from center of Stop Bar

NOTES:

1) The sight distance photos were taken on November 3, 2010.
2) The height of the camera for both pictures was 3.5'.
3) See sheet #1 for the horizontal location of the camera'.
4) Sight distance line #1 has a clear sight line of more than 600'.
5) Even though sight distance line #2 does not have a clear sight line of more than 600', the sight line is not impacted by the fence. The sight distance is affected only by ground and vegetation.

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COMMONWEALTH OF VIRGINIA
Thomas W. Kendall
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LAND SURVEYOR

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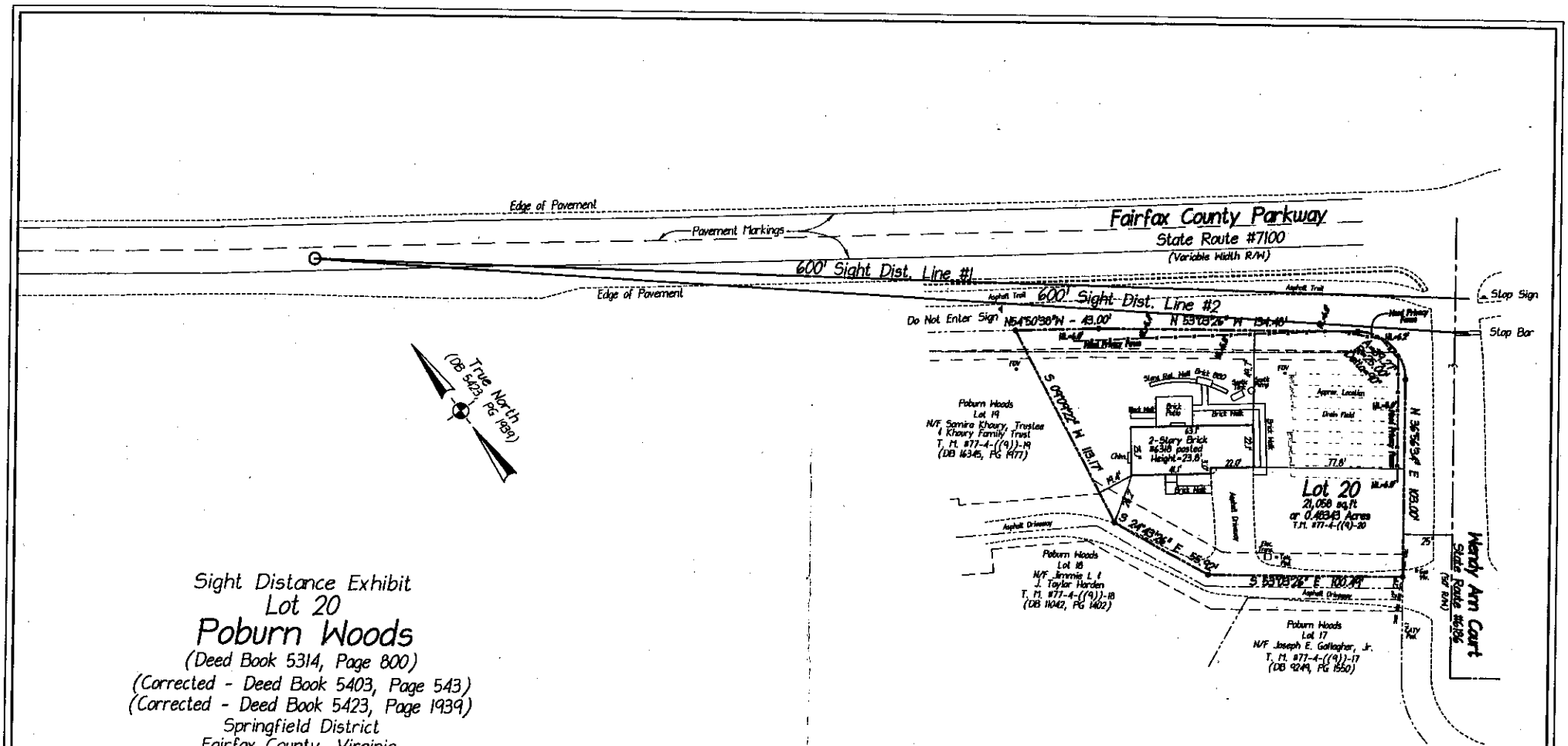
Springfield District
Fairfax County, Virginia
November 30, 2010 - Scale: N/A

Sheet 2 of 2

RECEIVED
Department of Planning & Zoning
DEC 01 2010
Zoning Evaluation Division



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Springfield District
Fairfax County, Virginia
November 30, 2010 - Scale: 1" = 30'
Sheet 1 of 2

Kendall Consulting, Inc.
Land Surveying & Land Planning
P. O. Box 1569 - Fairfax, Virginia 22038
Ph: (703) 591-1157 Fax: (703) 591-1518

COMMONWEALTH OF VIRGINIA
Thomas W. Kendall
Lic.No.1711
11/30/10
LAND SURVEYOR

RECEIVED
Department of Planning & Zoning
DEC 01 2010
Zoning Evaluation Div.

APPENDIX 4

County of Fairfax, Virginia

To protect and enrich the quality of life for the people, neighborhoods and diverse communities of Fairfax County.

FAIRFAX COUNTY
RECEIVED
APR 22 2010
DIVISION OF
ZONING ADMINISTRATION

NOTICE OF VIOLATION

DATE OF ISSUANCE: April 20, 2010

SHERIFF'S LETTER

CASE #: 200907416
SR#: 56445

SERVE: **Ali Abdi**
6318 Wendy Ann Court
Fairfax Station, VA 22039

LOCATION OF VIOLATION 6318 Wendy Ann Court
Poburn Woods, Lot 20
Fairfax Station, Virginia 22039
Tax Map #: 77-4 ((9)) 20
Zoning District: R-1

Dear Property Owner:

An inspection of the above referenced property on December 4, 2009 and on December 29, 2009 revealed the following violations of the Fairfax County Zoning Ordinance.

§ 10-104 (3B) Accessory Fence Exceeding 4' in the Front Yard
§ 2-302 (6) Accessory Use must comply with Article 10:

The inspection found the presence of an accessory fence, which is approximately six foot (6) in height, in the front yard of this property along Wendy Ann Court. According to Department of Tax Administration Records, the lot is approximately 21,058 square feet in size. The Fairfax County Zoning Ordinance permits accessory fences in the front yard so long as they are in conformance with Par. 3B of Sect. 10-104 of the Zoning Ordinance which states:

> Except as may be qualified by Sect. 2-505, a fence or wall may be located as follows. Such regulations shall not be deemed to negate the screening requirements of Article 13.

A. In any yard on any lot containing not less than two (2) acres located in the R-A through R-1 Districts, a fence or wall not exceeding seven (7) feet in height is permitted.

B. In any front yard on any lot, a fence or wall not exceeding four (4) feet in height is permitted. However, in that portion of a front yard on a residential corner lot that abuts a major thoroughfare, a solid wood or masonry fence or wall not exceeding eight (8) feet in height, located flush to the ground, may be permitted, provided that:

(1) The driveway entrance to the lot is from a street other than the major thoroughfare and the principal entrance of the dwelling faces a street other than the major thoroughfare, and

(2) The lot is not contiguous to a lot which has its only driveway entrance from the major thoroughfare or service drive adjacent to the major thoroughfare.

The fence shall not extend into the front yard between the dwelling and the street other than the major thoroughfare and shall also be subject to the provisions of Sect. 2-505.

In addition, an increase in fence height in the front yard up to six (6) feet may be permitted with the approval of a special permit by the BZA in accordance with Part 9 of Article 8.

Therefore, as this accessory fence exceeds four feet (4') in height in the front yards along Wendy Ann Court contrary to the provisions of Par. 3B of Sect. 10-104 of the Zoning Ordinance, you are in violation of Par. 3B of Sect. 10-104 and Par. 6 of Sect. 2-302 of the Zoning Ordinance which states:

> No accessory structure or use, as defined in Article 20, shall hereafter be built, moved, remodeled, established, altered or enlarged unless such accessory structure or use complies with the provisions of Par. 1 of Article 10.

You are hereby directed to clear this violation within fifteen (15) days of the date of this Notice. Compliance can be accomplished by:

- Removing the fence from the property in its entirety; or
- Reducing the height of the fence to four feet (4') in the front yard setback area along the total length of Wendy Ann Court.

As an alternative, you may apply to the Fairfax County Board of Zoning Appeals (BZA) and actively pursue and ultimately obtain approval of a Group 9 Special Permit for an error in building location to allow the accessory storage structure to remain at its present height and at its

present location. For information and answers to any questions regarding this application process, you may contact the Zoning Evaluation Division at 703-324-1290.

A follow-up inspection will be made at the expiration of the time period outlined in this Notice. Failure to comply with the Notice will result in the initiation of appropriate legal action to gain compliance with the Zoning Ordinance.

You may have the right to appeal this Notice of Zoning Violation within thirty (30) days of the date of this letter in accordance with Sec. 15.2-2311 of the Code of Virginia. This decision shall be final and unappealable if it is not appealed within such thirty (30) days. Should you choose to appeal, the appeal must be filed with the Zoning Administrator and the Board of Zoning Appeals (BZA) in accordance with Part 3 of Article 18 of the Fairfax County Zoning Ordinance. Those provisions require the submission of an application form, a written statement setting forth the decision being appealed, the date of decision, the grounds for the appeal, how the appellant is an aggrieved party and any other information that you may wish to submit and a $2455.00 filing fee. Once an appeal application is accepted, it will be scheduled for public hearing and decision before the BZA.

Should you have any questions or need additional information, please do not hesitate to contact me at (703)324-1395 or (703)-324-1300.

Sincerely,

C. P. Fitzhugh

Charles P. Fitzhugh
Property Maintenance/Senior Zoning Inspector

Street File

County of Fairfax, Virginia

To protect and enrich the quality of life for the people, neighborhoods and diverse communities of Fairfax County.

NOTICE OF VIOLATION

DATE OF ISSUANCE: February 4, 2010

CERTIFIED LETTER: 7009 0960 0001 1120 8602

CASE #: 200907416
SR#: 56445

SERVE: **Ali Abdi**
6318 Wendy Ann Court
Fairfax Station, VA 22039

LOCATION OF VIOLATION 6318 Wendy Ann Court
Poburn Woods, Lot 20
Fairfax Station, Virginia 22039
Tax Map #: 77-4 ((9)) 20
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§ 2-302 (6) Accessory Use must comply with Article 10:

The inspection found the presence of an accessory fence, which is approximately six foot (6) in height, in the front yard of this property along Wendy Ann Court. According to Department of Tax Administration Records, the lot is approximately 21,058 square feet in size. The Fairfax County Zoning Ordinance permits accessory fences in the front yard so long as they are in conformance with Par. 3B of Sect. 10-104 of the Zoning Ordinance which states:

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Department of Planning and Zoning
Zoning Administration Division
Zoning Enforcement Branch
12055 Government Center Parkway, Suite 829
Fairfax, Virginia 22035-5508
Phone 703-324-1300 FAX 703-324-1343
www.fairfaxcounty.gov/dpz/

DEPARTMENT OF PLANNING & ZONING

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The fence shall not extend into the front yard between the dwelling and the street other than the major thoroughfare and shall also be subject to the provisions of Sect. 2-505.

In addition, an increase in fence height in the front yard up to six (6) feet may be permitted with the approval of a special permit by the BZA in accordance with Part 9 of Article 8.

Therefore, as this accessory fence exceeds four feet (4') in height in the front yard along Wendy Ann Court contrary to the provisions of Par. 3B of Sect. 10-104 of the Zoning Ordinance, you are in violation of Par. 3B of Sect. 10-104 and Par. 6 of Sect. 2-302 of the Zoning Ordinance which states:

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You are hereby directed to clear this violation within fifteen (15) days of the date of this Notice. Compliance can be accomplished by:

- Removing the fence from the property in its entirety; or
- Reducing the height of the fence to four feet (4') in the front yard setback area along Wendy Ann Court.

As an alternative, you may apply to the Fairfax County Board of Zoning Appeals (BZA) and actively pursue and ultimately obtain approval of a Group 9 Special Permit for an error in building location to allow the accessory storage structure to remain at its present height and at its

present location. For information and answers to any questions regarding this application process, you may contact the Zoning Evaluation Division at 703-324-1290.

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Should you have any questions or need additional information, please do not hesitate to contact me at (703)324-1395 or (703)-324-1300.

Sincerely,

C. P. Fitzhugh

Charles P. Fitzhugh
Property Maintenance/Senior Zoning Inspector

8-006 General Standards

In addition to the specific standards set forth hereinafter with regard to particular special permit uses, all special permit uses shall satisfy the following general standards:

1. The proposed use at the specified location shall be in harmony with the adopted comprehensive plan.

2. The proposed use shall be in harmony with the general purpose and intent of the applicable zoning district regulations.

3. The proposed use shall be such that it will be harmonious with and will not adversely affect the use or development of neighboring properties in accordance with the applicable zoning district regulations and the adopted comprehensive plan. The location, size and height of buildings, structures, walls and fences, and the nature and extent of screening, buffering and landscaping shall be such that the use will not hinder or discourage the appropriate development and use of adjacent or nearby land and/or buildings or impair the value thereof.

4. The proposed use shall be such that pedestrian and vehicular traffic associated with such use will not be hazardous or conflict with the existing and anticipated traffic in the neighborhood.

5. In addition to the standards which may be set forth in this Article for a particular group or use, the BZA shall require landscaping and screening in accordance with the provisions of Article 13.

6. Open space shall be provided in an amount equivalent to that specified for the zoning district in which the proposed use is located.

7. Adequate utility, drainage, parking, loading and other necessary facilities to serve the proposed use shall be provided. Parking and loading requirements shall be in accordance with the provisions of Article 11.

8. Signs shall be regulated by the provisions of Article 12; however, the BZA, under the authority presented in Sect. 007 below, may impose more strict requirements for a given use than those set forth in this Ordinance.

8-903 Standards For All Group 9 Uses

In addition to the general standards set forth in Sect. 006 above, all Group 9 special permit uses shall satisfy the following standards:

1. All uses shall comply with the lot size and bulk regulations of the zoning district in which located, except as may be qualified below.

2. All uses shall comply with the performance standards specified for the zoning district in which located.

3. Before establishment, all uses, including modifications or alterations to existing uses, shall be subject to the provisions of Article 17, Site Plans, or other appropriate submission as determined by the Director.

8-923 ***Provisions for Increase in Fence and/or Wall Height in Any Front Yard***

The BZA may approve a special permit to allow an increase in fence and/or wall height in any front yard subject to all of the following:

1. The maximum fence and/or wall height shall not exceed six (6) feet and such fence and/or wall shall not be eligible for an increase in fence and/or wall height pursuant to Par. 3I of Sect. 10-104.

2. The fence and/or wall shall meet the sight distance requirements contained in Sect. 2-505.

3. The BZA shall determine that the proposed fence and/or wall height increase is warranted based upon such factors to include, but not limited to, the orientation and location of the principal structure on the lot, the orientation and location of nearby off-site structures, topography of the lot, presence of multiple front yards, and concerns related to safety and/or noise.

4. The BZA shall determine that the proposed fence and/or wall height increase will be in character with the existing on-site development and will be harmonious with the surrounding off-site uses and structures in terms of location, height, bulk, scale and any historic designations.

5. The BZA shall determine that the proposed fence and/or wall height increase shall not adversely impact the use and/or enjoyment of other properties in the immediate vicinity.

6. The BZA may impose such conditions as it deems necessary to satisfy these criteria, including but not limited to imposition of landscaping or fence and/or wall design requirements.

7. Notwithstanding Par. 2 of Sect. 011 above, all applications shall be accompanied by fifteen (15) copies of a plat and such plat shall be presented on a sheet having a maximum size of 24" x 36", and one 8 ½" x 11" reduction of the plat. Such plat shall be drawn to a designated scale of not less than one inch equals fifty feet (1" = 50'), unless a smaller scale is required to accommodate the development. Such plat shall be certified by a professional engineer, land surveyor, architect, or landscape architect licensed by the State of Virginia. Such plat shall contain the following information:

   A. Boundaries of entire property, with bearings and distances of the perimeter property lines, and of each zoning district.

B. Total area of the property and of each zoning district in square feet or acres.

C. Scale and north arrow, with north, to the extent feasible, oriented to the top of the plat and on all supporting graphics.

D. The location, dimension and height of any building or structure, to include existing or proposed fences and/or walls.

E. All required minimum yards to include front, side and rear, a graphic depiction of the angle of bulk plane, if applicable, and the distances from all existing structures to lot lines.

F. Means of ingress and egress to the property from a public street(s).

G. For nonresidential uses, the location of parking spaces, indicating minimum distance from the nearest property line(s).

H. If applicable, the location of a well and/or septic field.

I. If applicable, existing gross floor area and floor area ratio.

J. Location of all existing utility easements having a width of twenty-five (25) feet or more, and all major underground utility easements regardless of width.

K. The location, type and height of any existing and proposed landscaping and screening.

L. Approximate delineation of any floodplain designated by the Federal Insurance Administration, United States Geological Survey, or Fairfax County, the delineation of any Resource Protection Area and Resource Management Area, and the approximate delineation of any environmental quality corridor as defined in the adopted comprehensive plan, and, if applicable, the distance of any existing and proposed structures from the floodplain, Resource Protection Area and Resource Management Area, or environmental quality corridor.

M. Seal and signature of professional person certifying the plat.

8. Architectural depictions of the proposed fence and/or wall to include height, building materials and any associated landscaping shall be provided.